

ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application, and for the personal interview conducted on July 26, 2008. The application has been carefully reviewed in light of the Office action and interview, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

Applicant notes that this response is filed with an RCE, and applicant requests that an interview be conducted between applicant and the Examiner before an action is generated to this response. This interview may be conducted in person or by telephone.

Claims 1-30, 34, 36, 38, 40, 42, 44, 46, 48, and 50-51 remain in this application. Claims 31-33, 35, 37, 39, 41, 43, 45, 47, and 49 have been canceled. New claims 52-53 have been added without adding any new matter.

Claims 1-11, 14-36, and 38-51 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kraftson et al. (U.S. 6,151,581) in view of Joao (U.S. 6,283,761), and in view of Siegrist, Jr. *et al.* (U.S. 5,652,842), and Official Notice. Claims 12-13 and 37-38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kraftson, Joao, and Siegrist, in further view of Plantec *et al.* (U.S. 6,826,540). For the following reasons, the rejections are respectfully traversed.

As discussed at the personal interview, none of the cited references disclose a survey method where reports are generated in real time or near real time, using both historical survey data and survey data being currently collected. Furthermore, none of the references teach that the actual survey participant can see, in real time or near real time, survey reports that incorporate historical survey data and survey data collected from the current participant, in a manner that the report can be presented during, or immediately after, the current participant's survey.

Accordingly, each of the claims have been amended to incorporate one or more of these limitations, and thus are patentable over the prior art as discussed at the interview.

Furthermore, none of the references teach or suggest that historical survey data is used to display survey results to the *survey participant*, where the material is formatted in a *custom* manner based on whether the participant is a customer or an employee or a manager. The Examiner cites Joao at col. 2, lines 54-63, col. 4, lines 27-33 and col. 19 at lines 7-11 and col. 20 at lines 21-27 as providing such a teaching.

However, a review of these sections finds no such teachings, either explicitly or implicitly. Instead, the cited sections are consistent with presenting the *same* survey feedback to the various parties, and none discuss displaying the data to the actual survey participant, but only to other parties. Nothing in the reference discusses customizing the survey based on *who* is participating. Accordingly, claim 1 is patentable over the references for this reason as well, as are claims 14, 29, 30, 31, and claim 34 also include limitations that are similar (but perhaps of a different scope) to those cited above for claim 1, and thus they are also patentable over the references, as are claims 2-11, and 15-28, which depend, directly or indirectly, upon one of claims 1 and 14.

Furthermore, the Examiner argues that various “non-functional descriptive material” will not distinguish the claimed invention, but applicant has already disputed this rejection in previously filed responses. The Examiner has failed to show that the language is merely descriptive, and thus the rejections must be withdrawn.

Regarding the official notice that displaying survey data in real time or near real time is notoriously well known *see pages 11-12 of the Office action), if that were the case then the Examiner should be able to find a relevant reference with such a teaching. Applicant disputes this assertion of the Examiner. Taking “official notice” requires that facts outside of the record be capable of instant and *unquestionable* demonstration as being ‘well-known’ in the art (see MPEP §2144.03). However, the Examiner has apparently attempted, but failed, to find a reference which teaches the this real-time feature of the invention. Hence, these elements are not likely to be “notoriously well known” as required (*id.*). Accordingly, applicant hereby traverses the official notice and formally requests, as required by the MPEP (*id.*), that the Examiner locate a *relevant* reference in support of his position that such features are well known, as asserted in the Office action.

Consequently, applicant asserts that the Examiner’s rejection of the claims based on the Official notice that is herein traversed, be withdrawn absent the Examiner finding a reference supporting the notoriously “well known” nature of the claimed feature.

Finally, as discussed in the previous response, the Examiner has not provided a proper showing of a prima facie case of obviousness, and thus the rejections are not proper for this reason as well.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33035US1.

Respectfully submitted,
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By: _____ / Robert F. Bodi / _____

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